

Court says HUD failed to protect young from lead

PAINT, from A1

Comment on the ruling

The court ruled on a case filed in 1981 on behalf of public housing tenants in the District of Columbia. But the decision has nationwide implications for the 2.8 million families that receive federal housing assistance. The government says it does not know how many of the homes have lead paint because it has never attempted to count them and does not test for the presence of lead in federally subsidized housing.

The case was decided unanimously by Judges Edward Allen Tamm, Ruth Bader Ginsburg and Robert H. Bork. Judge Tamm wrote the opinion, holding a decision issued last summer by U.S. District Judge Gerhard A. Gesell.

"Congress was intensely concerned with the public health menace of lead poisoning and clearly intended to bring the power of the federal government to bear in ameliorating the problem," the appeals court said.

"Lead poisoning, the accumulation of lead in body tissues, is a serious health problem, particularly for children," it added. "Lead poisoning in children may affect the central nervous system, causing convulsions, coma and permanent brain damage or death. Approximately 200 children in the United States die each year from lead poisoning, and as many as 10,000 additional children suffer significant adverse effects from the condition."

The sale of lead-based paint has been banned for more than a decade.

Children swallow the poisonous lead when they eat chips or flakes of lead-based paint and when they chew on painted surfaces such as windowsills and door frames.

The problem of lead-based paint poisoning has been particularly severe in big cities where many people live in run-down older buildings.

The court directed Mr. Pierce to issue new rules to minimize the danger of exposure to lead-based paint in all federally assisted housing and houses affected by federal mortgage insurance. The court did not prescribe the content of the rules. Presumably, a local public housing agency, as a condition of receiving federal funds, will have to remove or cover up all lead-based paint on walls, woodwork, windows and other surfaces accessible to children.

In housing projects owned by the federal government, government employees would presumably have to eliminate the hazards. Housing experts said the government could burn off the paint or cover it with hard plastic or wallboard.

Rules issued by the government in 1976 require landlords to remove lead paint in federally subsidized housing only if the paint is "cracking, scaling, chipping, peeling or loose." Cheryl C. Burke, an attorney for the plaintiffs, argued that even if the paint was not peeling or loose, it presented an "immediate hazard" to children because they could chew on windowsills, door frames and other painted surfaces.

Miss Burke said she was elated by yesterday's ruling. The appeals court concluded that Congress had wanted "to eliminate not only hazards due to lead-based paint in a defective condition, but also hazards resulting from intact lead-based paint accessible to children."

Lead poisoning was recognized as a major childhood health problem more than a decade ago. A federal study last year said that one of every 25 preschool children carried an unacceptably high level of lead in his blood. The problem was found to persist in middle-class suburban neighborhoods as well as inner-city poor neighborhoods.

Cheryl Wins A Case

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